

No. 9(1)82-6Lab-7945.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s The Rohtak Central Co-operative Bank Ltd., Rohtak.

BEFORE SHRI BANWARI LAL DAI AL. PRESIDING OFFICER, LABOUR COURT HARYANA, ROHTAK.

Reference No. 49 of 1980.

between

SHRI RAGHU NANDAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S THE ROHTAK CENTRAL CO-OPERATIVE BANK LTD., ROHTAK.

Present.—

Shri Gurdial Singh, for the workman.

Shri M.M. Kaushal, for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/RTK/132-79/11329, dated 3rd March, 1980 under section 10(i)(c) of the I.D. Act for adjudication of the dispute existing between Shri Raghu Nandan Singh, workman and the management of M/s The Rohtak Central Co-operative Bank Ltd., Rohtak. The term of the reference was :—

Whether the termination of services of Shri Raghu Nandan Singh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance on 5th May, 1980. The management absented themselves on 5th June, 1980. *Ex parte* order was passed against the management and the same was set aside on 4th August, 1980 on the payment of Rs. 20 as cost. The parties filed their respective pleadings, on the basis of which the following issues were framed :—

1. Whether the reference is bad in law as per the reason given in para 1 of the preliminary objection ?
2. Whether this court has no jurisdiction in view of provisions of Punjab Coop. Societies Act, 1961 ?
3. Whether the applicant is a workman under section 2(s) of the I.D. Act ?
4. As per the reference ?

The authorised representatives of the parties proposed that the evidence of the parties recorded in application No. 49 of 1979 may also be read as their evidence in this reference. Their statements were recorded as under :—

Statement of Shri M.M. Kaushal, representative of the management.—The evidence adduced by the management in application No. 49 of 1979 may be treated as their evidence in this case also.

Statement of Shri Gurdial Singh representative of the workman.—The evidence adduced by the workman in application No. 49 of 1979 may be treated as his evidence in this case also.

And the reference file was attached with the file of application No. 49 of 1979 for purposes of evidence. I heard the learned representatives of the parties and have also gone through the material on record and decide the issues as under :—

Issue No. 1.—The management has taken objection in their written statement that the workman submitted his resignation voluntarily in his own hand requesting the Managing Director to accept the same. The resignation was accepted and the acceptance was conveyed,—*vide* letter No. Establishment /78-9/1351/CB, dated 17th July, 1978. By submitting the resignation the workman ceased of his relation with the management. The management further contended that the case of resignation was not coverable within the meaning of section 2(A) of the I.D. Act and the reference was bad in law.

The workman has alleged that the resignation was obtained under force and pressure and he had no intention to resign. The resignation was undated and the same was got written from him in the staff meeting held on 3rd June, 1978. He sent registered A.D. notice to withdraw the resignation, copies of which were sent to the S.D.M., Rohtak, Registrar, Cooperative Societies, Chandigarh, HARCO Bank Ltd., Chandigarh, Deputy Registrar Cooperative Societies, Rohtak.

Now the question to be determined is whether the resignation is voluntarily or under coercion or pressure. The photo copy of the resignation is Ex. M-3. The original of Ex. M-3 has also been placed on file. Ex. M-3 contains the comments of the Executive Officer Branch, Jajjar and Manager, Head Office Rohtak. The Executive Officer has reported that the workman was a habitual absentee and his progress was nil upto 30th June, 1978 and further recommended that his resignation be accepted. The Manager, Head Office, Rohtak agreed with the comments of the Enquiry Officer and further added that the workman was disobedient and recommended that resignation be accepted. On the back side of original of Ex-M-3 which have not been photo copies on Ex-M-3 the noting of the Manager inviting the attention of the Managing Director dated 11th July, 1978 to reference received from (i) Deputy Registrar, Rohtak (ii) Managing Director, HARCO Bank (iii) S.D.O. (Civil) Rohtak (iv) Request of the workman to withdraw his resignation with further intimation that the aforesaid officers had asked that office for comments. The Managing Director passed the order as 'Discussed resignation accepted with immediate effect' on 11th July, 1978. All these notings and the order passed by the Managing Director got proved that the authorities were not satisfied with the work and conduct of the workman but they had not opted to resort to a difficult and cumbersome procedure in issuing charges sheet and holding domestic enquiry and chose the easier method of dispensing with the services of the workman by obtaining his resignation. The order accepting the resignation clearly depicts the state of the mind of the Managing Director that he had already made up his mind to terminate the services of the workman in the guise of the resignation extracted from the workman. It is not possible for the managing Director to have discussed the matter with the officers which have been mentioned in the noting of the Manager the same day when the order of acceptance was passed. The workman has sent his letter of withdrawal on 6th June, 1978 and the resignation was accepted on 11th July, 1978. The workman has levelled serious allegations about obtaining the resignation under undue pressure and force and he was not given any opportunity of hearing and without getting any clarification as to how the resignation was obtained under undue pressure and not voluntarily does show that the management has not acted in a bona fide manner. Under these circumstances the resignation cannot be said to be submitted voluntarily. Moreover the mala fides of the management are also proved that the workman was relieved of his charge on 7th July, 1978 without any order,—*vide* chargelist Ex. M-5. The management has stated in their written statement in para 2 on merits that respondent did not take the charge on 7th July, 1978 and the applicant failed to turn up from 7th July, 1978 onwards. But it was the management who confronted the workman during his cross examination with the document Ex. M-5 which belies the contention of the management that they did not relieve the workman on 7th July, 1978. The resignation was accepted on 11th July, 1978 and according to the management it was conveyed to the workman on 17th July, 1978 on the address of his place of posting but when the workman was relieved of his charge on 7th July, 1978 then how it could have reached the workman. He was not expected to remain there. The acceptance of the resignation was also not conveyed to him on 17th July, 1978 as has been alleged by the management and the taking over charge from the workman prior to the acceptance of resignation does also go to support my view that the management was not acting in a bona fide manner and was working in a preplan manner to oust the workman from their service. The management had also placed a letter of the workman addressed to the Manager Head Office Rohtak which has been exhibited MW-15 in which the workman has stated that in view of his order he went to the Manager Jhajjar Branch. This shows that the workman was not furnished with the no due certificate and he was asked to hand over his charge though the same was handed over *vide* Ex. M-5 and this letter also proves that the management was not sure as to when the workman was relieved of his charge and as to when his services came to any end. The workman has stated in his cross-examination that he received the wages upto 7th July, 1978 and the management has not stated anything that he was entitled to any more wages for the month of July, 1978 showing the rebuy that the workman remained in the service of the management upto 7th July, 1978 and the acceptance of the resignation after 4 days and conveyance of the same after 10 days cannot be justified. The act of termination was complete on 7th July, 1978 and the acceptance of resignation conveyed on 17th July, 1978 as of no help to the management and it cannot be deemed that the relieving of workman on 7th July, 1978 is on account of the resignation submitted by the workman. On the basis of the discussion made above I hold that the resignation Ex. M-3 was obtained under undue pressure and it was not voluntary and the reference is not bad in law as there is no resignation in the eyes of law and management terminated the services of the workman on 7th July, 1978 by taking over charge from him. I decide the issue against the management.

Issue No. 2.—The management neither adduced any evidence on this issue nor it was pressed during the course of arguments, the same is decided against the management.

Issue No. 3.—MW-2 has stated in his cross examination that Mini Bank Manager was himself a worker and no other employee was under him meaning thereby that he was the sole member of the staff working in the Mini Bank. MW-1 has also stated in his cross examination that there was no clerk or peon working with the applicant and all the work was being done by the applicant himself. This shows that whatever clerical or manual work was in the Mini Bank was done by the applicant himself and there was none working under him, the work of whom he was required to supervise. The applicant was therefore fully covered under the definition of workman as given in section 2(s) of the I.D. Act. The issue is accordingly decided against the management.

Issue No. 4.—In view of my findings on issue No. 1 the services of the workman were terminated by the management and it was found that the workman did not submit his resignation voluntarily and even otherwise the services of the workman were terminated before the resignation was accepted and it was also found that the management acted in a mala fide and preplanned manner. The management has not been able to justify their action.

I, therefore, give my award that the termination of the workman is neither justified nor in order. The workman is entitled to reinstatement with continuity of service and with full back wages. No order as to costs. This reference is answered and returned accordingly.

The 22nd July, 1982.

BANWARI LAL DALAL.

Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 1809, dated 20th July, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the I. D. Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No 9(1)82-61ab/7946.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Hindustan Everest Tools Ltd., Jatheri (Sonapat).

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 7 of 1978

between

SHRI RAM SINGH, WORKMAN AND THE MANAGEMENT OF M/S. HINDUSTAN EVEREST TOOLS,
LTD., JATHERI (SONEPAT).

Present:—

Shri S.N. Solanki, for the workmen.

Shri Surinder Kaushal, for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/RK/1125, dated 11th January, 1978 under section 10(i)(c) of the I.D. Act for adjudication of the dispute existing between Shri Ram Singh, workman and the management of M/s. Hindustan Everest Tools Ltd., Jatheri, the term of the reference was:—

Whether the termination of services of Shri Ram Singh was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance. The workman filed his claim statement, copy was given to the management. The workman did not appear on 18th July, 1978. He was sent with notice but he did not appear on the next date also and was proceeded *ex parte*. The *ex parte* order was set aside and the following issues were framed on the basis of the pleas of the parties:—

1. Whether the workman resigned his post of his free will and his own accord.
2. Whether the workman signed the blank papers which were converted into resignation and others letter? If so, to what effect?
3. If issue No. 1 is proved in favour of the management whether this court has no jurisdiction?
4. If issue No. 1 is decided against the management and No. 2 in favour of the workman then as per reference?

The management examined Shri U.C. Pant, Deputy Manager, Personnel, Shri S.N. Dawar, Personnel Officer, Industries, Faridabad and Shri M.K. Boss, Technical Manager of the respondent as their witnesses and

closed their case. The workman examined himself as his witness and closed his case. I heard the learned representatives of the parties and have gone through the material on record and decide the issues as under—

Issue No. 1 and 2.—The workman has alleged in his notice of demand that on 9th January, 1976 he was told by the Assistant Labour Officer that he was publicising against Smt. Indira Gandhi and he must submit his resignation. On his refusal he was sent to a different room where one Hawaldar and two constables were sitting. They asked him to sign blank papers five in number and on his refusal his eyes were bandaged and was given a severe beating and after that he was shut for two hours in the Laterin and after that when he refused to sign he was made to lie down on the ice slabs, his hands and feet tied down. He put his signatures on the blank papers in order to save his life. In his statement of claim the workman has alleged that on 9th January, 1976 he was called by the Assistant Labour Officer in his office at 7.00 P.M. When he entered the office he saw some policemen sitting there. Shri O.N. Mishra pressurised him for Nasbandi operation. On his refusal he was beaten severely by Shri O.N. Mishra and the policemen. He was forced to lie down on ice and when again he refused for Nasbandi operation he was forced to sign 5 blank papers.

The management has alleged in their written statement that workman submitted his resignation on 9th January, 1976 which was accepted and the acceptance was conveyed under the signatures on 9th January, 1976. The workman submitted his clearance certificate on 12th January, 1976 and he was paid Rs 7.80 paise after deducting the provident fund contribution and other advances. The workman after taking his dues kept mum for more than one-and-a-half years and submitted his demand notice on 22nd August, 1977. The management further alleged that the case was not coverable under section 2(A) of the I.D. Act.

The workman has admitted in his cross examination that he did not give in writing to any higher authority of the management about the occurrence on 9th January, 1976 and the treatment meted out with him on that day. He has also admitted that he did not any make representation before the S.S.P. or the I.G. Police about this happening and the excesses of the policeman done to him on 9th January, 1976. This type of conduct on the part of the workman and the delay in raising his demand the contradictions in his claim statement and notice of demand to show that the workman has made out a false claim to profit himself by making a capital out of change of government which was deadly opposed to the previous government headed by Mr. Indira Gandhi. All this seems an afterthought and is not worth reliance. The workman has admitted his signatures on all the documents placed on file by the management from Ex. M-1 to M-9 but he has shown his ignorance about their contents. The allegation of the workman that he was forced to sign five blank papers is also not true as the relevant documents relating to clearance, acceptance of resignation and voucher are not blank papers and only one paper out of five consists of the blank paper which is the resignation of the workman. I am therefore fully convinced that the workman resigned his job wilfully of his own accord without any threat or pressure or coercion as alleged by the workman. The issue No. 1 is accordingly decided in favour of the management and issue No. 2 is decided against the workman.

Issue No. 3 and 4.—When issue No. 1 has been decided in favour of the management and it has been held that the workman resigned his job of his own accord the workman is not competent to raise the present dispute under section 2(A) of the I.D. Act leading to the reference. The reference order becomes bad in law and the same is not maintainable in this court as this is a case of resignation and not of termination of services by the management. The management is not required to give any justification as the services of the workman has come to an end by his own act by way of resignation. The workman is not entitled to any relief. The reference is answered and returned accordingly.

Dated the 22nd July, 1982

BANWARI LAL DALAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

Endorsment No. 1810 dated the 30th July, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I.D. Act.

BANWARI LAL DALAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.